

Penalising surreptitious advertising by influencers on social networks

Abstract

This academic paper deals with the trend of influencer advertisement and its regulation in the Czech Republic and the European Union. It also evaluates the effectiveness of enforcement in the Czech Republic and presents three different approaches to enforcement abroad, including Czech and foreign self-regulation.

The first section of the paper describes the development of influencer advertisement and the form it takes today, emphasizing the remuneration of influencers. Its most pressing problem is the hidden form of advertising and thus it is considered deceptive advertising. The second part focuses on the current domestic public and private law regulation of advertising as applied in the social networks environment and defines the legal status of the participants. The legal regulation in the Czech Republic is based on the European Union law, and therefore the thesis reflects the key concepts in the light of the Guidance on the interpretation and application of Directive concerning unfair business-to-consumer commercial practices in the internal market. After analysis of the applicable law, the main purpose of the next chapter is to define the difference between an influencer's recommendation and their commercial content, highlighting the specific differences between the two.

The third section of the paper deals with the decisions that district trade licensing offices made, whose task it is, to control the advertisements on social networks. The emphasis is on three specific decisions. Such decisions determine the legality of specific advertisements. The fourth part of the thesis presents the Czech self-regulation, compares it with foreign ones and makes proposals to make it more effective.

The last part of the thesis analyses and compares three different approaches on sanctions for hidden influencer advertising abroad. It first examines specific decisions of the German courts, then gives attention to the practice of the British self-regulator, and finally outlines state oversight in the US.

On the basis of an analysis of Czech legislation and its enforcement and with regard to the study of foreign approaches on sanctions, the thesis concludes by proposing possible solutions for a

more effective and vigorous supervision of advertising on social networks in the Czech Republic.

Key words: misleading advertising, unfair commercial practice, consumer protection, influencer